



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Giles Management Constructors, Ltd.

File: B-227982

Date: September 14, 1987

DIGEST

Bid accompanied by a materially altered bid bond in which the solicitation number and the project title have been typed over a white-out and the alteration initialled by the bidder, without any evidence in the bid documents that the surety consented to the changes, is nonresponsive.

DECISION

Giles Management Constructors, Ltd. (GMCL) protests the rejection of its bid under invitation for bids (IFB) No. N62477-87-B-2012, issued by the Navy for renovation work at the Naval Research Laboratory, Washington, D.C. The Navy rejected the bid as nonresponsive because GMCL submitted a bid bond which had been altered without any indication of consent by the surety and which, even as altered, indicated an incorrect IFB number.

We find the protest without merit.

The IFB required the submission of a bid bond in the amount of 20 percent of the bid price. At bid opening on June 18, 1987, GMCL's bid of \$54,869 was low and the next low bid was \$56,100. In the bid bond submitted by GMCL (Standard Form 24), the bid identification information entries were altered. The solicitation number entry had been whited-out and a new number had been typed over. The number substituted was N63477-87-B-2012, while the correct IFB number is N62477-87-B-2012. This change was initialled by the bidder's president. The project title entry was similarly altered and initialled. These same changes also were made on the two affidavits of individual surety (Standard Form 28) submitted with the bid, with the same incorrect solicitation number substituted. Nowhere in the bid documents is there any evidence that the surety had consented to the changes or agreed to the new entries.

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Subsequent to the bid opening, by letter dated July 22, the surety stated that it had authorized the president of GMCL to change the solicitation number and the project title on the bid bond in question. The surety explained that the bid bond originally had been issued to GMCL for a different solicitation, which had been postponed, and the changes had been authorized in order to permit GMCL to use the bid bond for the IFB in question. The Navy rejected GMCL's bid as nonresponsive because of the alterations and defects on the face of the bid bond.


The submission of a required bid bond is a material condition of responsiveness with which there must be compliance at the time of bid opening. Kinetic Builders, Inc., B-223594, Sept. 24, 1986, 86-2 C.P.D. ¶ 342. Since a material alteration to a bid bond made without evidence of the surety's consent discharges the surety from liability, it renders the bid nonresponsive. G&P Parlamas, Inc., B-226335, Apr. 27, 1987, 87-1 C.P.D. ¶ 593; Ameron, Inc., B-218262, Apr. 29, 1985, 85-1 C.P.D. ¶ 485; Montgomery Elevator Co., B-210782, Apr. 13, 1983, 83-1 C.P.D. ¶ 400. If uncertainty exists at the time of bid opening that the bidder has furnished a legally binding bond, the bond is unacceptable and the bid, therefore, must be rejected as nonresponsive. Kinetic Builders, Inc., B-223594, supra.

Here, the alterations were made to critical elements of the bid identification information provided in the bond, consisting of the solicitation number--which even as altered remains incorrect--and the project title. Since the bond contains no other evidence of the intent of the surety to provide a bond on the bid in question, the alterations are material. Kinetic Builders, Inc., B-223594, supra; Baucom Janitorial Service, Inc., B-206353, Apr. 19, 1982, 82-1 C.P.D. ¶ 356. The submission of a letter from the surety subsequent to bid opening stating that the alterations took place with the surety's consent is without effect because the nonresponsive bid could not be made responsive after bid opening through clarification or explanation of what was intended. Ameron, Inc., B-218262, supra; Montgomery Elevator Co., B-210782, supra; Therefore, GMCL's bid was properly rejected as nonresponsive.

GMCL's argument that to permit it to cure the defect in its bid bond would result in savings to the government does not alter the outcome. The importance of maintaining the

integrity of the competitive bidding process outweighs the possibility that the government might realize a monetary gain by allowing a material defect to be corrected. Trans South Industries, Inc., B-224950, Dec. 19, 1986, 86-2 C.P.D. ¶ 692.

The protest is denied.



Harry R. Van Cleve
General Counsel

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